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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,845	03/12/2004	Klaus Lidolt	03100199AA	5020

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EXAMINER
JACKSON, BRANDON LEE

ART UNIT	PAPER NUMBER
3772	

MAIL DATE	DELIVERY MODE
06/24/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/798,845	LIDOLT ET AL.	
	Examiner	Art Unit	
	BRANDON JACKSON	3772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 May 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 3-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 3-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This Office Action is in response to amendments/arguments field 5/24/2010. Claims 1 and 3-15 are pending in the instant application.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/24/2010 has been entered.

Response to Arguments

Applicant's arguments filed 5/24/2010 have been fully considered but they are not persuasive. Applicant argues Nijenbanning and Woo are substantially unrelated and one of ordinary skill in the art would not have look to the Woo reference in order to modify the Nijenbanning orthopedic aid with a means for detecting a locking state, as taught by Woo. One could conclude that Nijenbanning and Woo are unrelated types of art because Nijenbanning teaches an orthopedic device and Woo teaches remote locking system for a bicycle. However, they are related because both devices involve using a remote to lock and unlock a device. Therefore, it was obvious to modify the Nijenbanning device with the feedback system, as taught by Woo, which indicated

through light signals whether the locking state of the device. It is advantageous to any device that involves a lock that is controlled by a remote to have a signaling means to indicate to the user whether the lock has properly locked or unlocked in response to the remote.

Applicant argues the Nijenbanning device has not use for alerting the user to the locking state of the device because the Nijenbanning lock automatically locks and unlocks as the user walks. However, the Nijenbanning device allows the user manually lock and unlock the device when necessary, such as when the user sits (col. 4, lines 18-27) or stands. In these situations it would be advantageous to the user to know that the device is either locked or unlocked to prevent an accidental fall of the user by trying to sit when the user believes the device is unlocked, but it is actually locked.

Applicant argues there would be no reason to replace the Nijenbanning wired remote with a wireless remote, as taught by Woo, because the Nijenbanning wire does not tangle. However, Nijenbanning does not state that the wire does not tangle. In addition, it is advantageous to have a wireless remote so the wire does not get caught on objects while walking, to hide the unsightly cable on the side of the user, and to prevent issues with the wire being too short for taller individuals to use comfortably.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

> invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 3-5, 7, and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nijenbanning et al. (US Patent 6,979,304) in view of Woo (US Patent 6,462,431). Nijenbanning discloses an orthopedic aid (fig. 1) that is used for walking and providing a support function for the human body (2), comprising two parts (12,14) which are movable relative to one another, and a locking device (30) for locking the two parts (12,14) relative to one another. The locking device (30) is actuated (col. 1, lines 33-39) electromechanically to permit unlocking via handgrip (20). Nijenbanning fails to disclose a means for detecting the locking state and a means for alerting a user of the locking state. However, Woo discloses a remote locking device (50) comprising wireless controller (130), a means (112) for detecting the locking state (col. 3, lines 42-46), and a LED (122) that emits a visual signal to alert the user to a locked or unlocked state. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Nijenbanning device with a wireless controller to prevent tangling of the wire during usage, a means for detecting the locking state, and

an LED to signal to the user to the locking state and prevent further injury by unexpected movement or non-movement of the device, as taught by Woo.

The Nijenbanning/Woo device teaches a signaling arrangement, which is the LED (122). The detecting means (112) electrically scans the locking state and generates an electric signal (fig. 3) as a function of the locking state.

Claims 6, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nijenbanning in view of Woo as applied to claim 1 above and further in view of Stark et al. (US Patent 6,184,797) and Doty (US Patent 7,235,058). Nijenbanning/Woo fails to disclose a locking pin arranged to be drawn into a magnet coil to permit unlocking. However, Stark discloses an orthopedic aid (2") with two parts (6ab", 6aa") which are movable relative to one another and with a locking device (21a) for locking the two parts (6ab", 6aa"), and a stator coil (45a) that can have a current pass through it to create a magnetic field to attract the brake and lock the hinge (21a) in place. Doty teaches a hinge (20) comprising a movable locking pin (106) that locks the hinge (20) in place. Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to Nijenbanning/Woo locking device to have a locking pin that is movable via a magnetic coil, as taught by Doty, instead of the current locking device in order to prevent slippage of the hinge when it is intended to be in the locked position.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nijenbanning, Woo, Stark and Doty as applied to claims 1, 6, and 8 above, and further

in view of Naft et al. (U.S. Patent Application Publication 2002/0183673). Nijenbanning/Woo/Stark/Doty substantially discloses the invention as claimed, see rejection of claims 1, 6, and 8 above, however Nijenbanning/Woo/Stark/Doty fails to disclose an electromagnetic actuating arrangement with a low actuating force of not more than 2N; the locking mechanism cannot be unlocked by the actuating arrangement on account of frictional forces. However, Naft teaches an electromagnetic arrangement that operates at with relatively low electromagnetic attraction forces (paragraph 0050, lines 1-5). Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to modify the joint of Nijenbanning/Woo/Stark/Doty with that taught by Naft in order to allow the joint to operate with low power consumption from the battery.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nijenbanning in view of Woo as applied to claims 1, 11, and 13 above, and further in view of Stark (US Patent 6,184,797). Nijenbanning/Woo fails to disclose the handgrip of the walking aid is provided with a vibrator that can be actuated by the signal of the signaling arrangement. Stark teaches a vibrator (77) as a means of alerting the user instead of a visual or audio. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to substitute a vibrator for the LED in order to provide signaling for those that are visually of hearing impaired.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRANDON JACKSON whose telephone number is (571)272-3414. The examiner can normally be reached on Monday - Friday 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571)272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brandon Jackson/
Examiner, Art Unit 3772

/BLJ/

/Patricia Bianco/
Supervisory Patent Examiner, Art Unit 3772